

**IN THE UNITED STATES OF THE DISTRICT OF DELAWARE**

**FOR THE DISTRICT OF DELAWARE**

**WILLIAM R. DAVIS, as executor  
of the estate of James W. Davis,  
Sr., deceased**

**Plaintiffs,**

**C.A. No. 05-288**

**V.**

**RAYMOND JAMES & ASSOCIATES, INC.,**  
a Florida corporation

**Defendant, Crossclaim-Defendant,**

**and**

**CHRISTINE M. POFFENBARGER,**

**Defendant, Counterclaim-  
Plaintiff, Crossclaim-  
Plaintiff and  
Third-Party Plaintiff**

**V.**

**WILLIAM R. DAVIS, JAMES W. DAVIS,  
JR., and LINDA M. TROUTT, and  
STAR ENTERPRISE, INC. a  
Delaware corporation,**

### Third-Party Defendants.

**MOTION FOR INTERPLEADER AND DISMISSAL OF**  
**DEFENDANT, RAYMOND JAMES & ASSOCIATES, INC.**

Defendant, Raymond James & Associates, Inc., ("Raymond James"), hereby moves this Honorable Court pursuant to Federal Rule of Civil Procedure 67 and 28 U.S.C. § 1335, 1297 and 2361 to have this Honorable Court accept defendant's interpleader of funds and, in support thereof, avers as follows:

1. Plaintiff, William R. Davis, brought suit against moving defendant, Raymond James & Associates, Inc. ("Raymond James") and defendant, Christine M. Poffenbarger ("Poffenbarger"), alleging that plaintiff, as executor of the Estate of James W. Davis, Sr., is entitled to proceeds of decedent's IRA account number 71254380 with Raymond James and that defendant Poffenbarger, the named beneficiary of the IRA account, is not on the grounds that plaintiff faxed decedent's investment instructions to defendant Raymond James, directing defendant to sell the IRA. Plaintiff contends that the IRA should be deemed to have been sold prior to decedent's death and the proceeds of the IRA deemed property of the decedent's estate. A copy of plaintiff's Complaint is attached hereto as Exhibit "A".

2. Defendant Poffenbarger, filed an Answer to Plaintiff's Complaint, claiming that she is entitled to the proceeds of the IRA account as the named beneficiary of decedent's IRA account. A copy of defendant Poffenbarger's Answer is attached hereto as Exhibit "B".

3. Concurrently with her Answer, defendant Poffenbarger filed a Third Party Complaint against third party defendants, William R. Davis, James W. Davis, Jr., Linda M. Troutt and Star Enterprise alleging in a separate matter not involving the IRA account that Poffenbarger is entitled to decedent's pension benefits from Star Enterprise. See Exhibit "B".

4. Defendant Raymond filed an Amended Answer to plaintiff's Complaint, pleading certain affirmative defenses including, but not limited to the affirmative defense that defendant Raymond is a mere stakeholder which has no interest in the proceeds of the IRA account in question. A copy of the Answer of Defendant, Raymond James & Associates, Inc., to Plaintiff's Complaint is attached hereto as Exhibit "C".

5. Defendant, Raymond James & Associates, Inc., also filed an Amended Answer to the Crossclaim of defendant/crossclaim plaintiff Poffenbarger, pleading certain affirmative defenses, including the affirmative defense that it is a mere stakeholder which has no interest in the proceeds of the IRA account in question.

6. By reason of the respective claims of plaintiff, William R. Davis and defendant, Poffenbarger to entitlement to proceeds of decedent's IRA account, defendant Raymond James is in great doubt as to which of these two parties is entitled to be paid the proceeds of decedent's IRA account.

7. Pursuant to Federal Rule of Civil Procedure 67, defendant, Raymond James requests leave of Court to have the entire balance of the IRA account deposited into United States District Court for the District of Delaware for distribution to those parties claiming entitlement to it upon adjudication of the Court.

8. Defendant, Raymond James requests further that it be discharged from any further obligations relating to decedent's IRA account number 71254380 and dismissed from this case upon payment of the above referenced funds.

WHEREFORE, defendant, Raymond James & Associates, Inc., respectfully moves this Honorable Court to enter the attached Order, accepting its interpleader, discharging defendant, Raymond James & Associates, Inc., from any further obligations relating to decedent's IRA

account number 71254380 and dismissing defendant, Raymond James & Associates, Inc., from this action with prejudice.

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

**BY: /s/ Kevin J. Connors  
KEVIN J. CONNORS, ESQ.  
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Attorney for Defendant,  
Raymond James & Associates, Inc.**

DATED: June 10, 2005

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